IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5147 of 2004

Between:

Tenneti Moshe S/o.T.Suraiah R/o.Aryapeta Panchayat
Elamanchili (Post & Mandal) Via Palakol, West Godavari District.

..... PETITIONER

AND

1 The Cooperative Deputy Registrar/Arbitrator, Bhimavaram, West Godavari District.
2 The Palakol Cooperative Urban bank Ltd rep.by its Secretary, Palakol, West Godavari District.
3 The Senior Inspector/Sale Officer, the Palakol Coopeative Urban bank Ltd., Palakol, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a appropriate writ or order direction more particularly writ of Mandamus declaring the impugned sale notice dt.21.2.2004 issued to the petitioner by the 1st respondent is illegal, arbitrary and unconstitutional and consequently direct the respondents not to recover any amount from the petitioner till the appropriate order is passed after giving opportunities to the petitioner.

Counsel for the Petitioner: MR.K.RAJI REDDY

Counsel for the Respondent No.2 : Mr B. VENKATA MADHAVA REDDY

Counsel for the Respondents.: GP FOR COOPERATION

The Court made the following :

ORAL ORDER:

Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner herein, by way of writ of Mandamus, seeks to assail the impugned sale notice dated 21-2-2004 issued by the 2nd respondent as bad, illegal and void and for consequential direction to the respondents not to recover any amount from him till the appropriate order is passed after giving opportunity to him.

The case of the petitioner is that though he has availed loan facility from the respondent No.1 herein, however, without passing any award or such proceedings as contemplated under the provisions of the A.P. Cooperative Societies Act, the respondents have straight away issued the sale notice, which is illegal. Hence, the writ petition.

In the counter affidavit filed by the respondents herein it is stated that an Award was passed on 17-2-2004 itself and the same was served duly on the petitioner's father and also his wife and though the same was sought to be served on the petitioner but the petitioner was not available in the village. It is also their case that the award was served through Certificate of Posting. These allegations are sought to be denied by

the petitioner to the effect that there is no such service affected.

Having heard the counsel on their side and also on perusal of the material, it is seen that admittedly the Award has not been served directly and personally on the petitioner. Though the case of the respondents is that the same was served on the petitioner's father and his wife and also by way of Certificate of Posting, the fact remains that there being no proper service of the award on the petitioner personally so as to avail the appeal remedy available to him under law. Further, any perception in the subsequent proceedings would not in any way cure the defect of non- service of the award.

In the above circumstances, it would suffice in the interest of justice, if the first respondent is directed to serve a copy of the award on the petitioner so as to enable the petitioner to avail the remedy of appeal under Section 76 of the said Act before the competent Authority. The 1st respondent shall serve a copy of the award on the petitioner within a period of two weeks and thereafter four weeks time is granted to the petitioner so as to enable him to approach the Appellate authority. The interim direction granted by this court dt.19-3-2004 shall continue for a period of six weeks from today.

With the above observations, the writ petition is disposed of. No costs.

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B. PRAKASH RAO, J

Dt. 27/8/04

Kvrk

To

1 The Cooperative Deputy Registrar/Arbitrator, Bhimavaram, West Godavari District.
2 The Secretary, Palakol Cooperative Urban bank Ltd., Palakol, West Godavari District.

3 The Senior Inspector/Sale Officer, the Palakol Coopeative Urban bank Ltd., Palakol, West Godavari District.

4. Two copies to G.P for Cooperation, High Court Bldgs.,Hyd.(OUT)

5. Two CD copies.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

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WRIT PETITION NO.5147 OF 2004

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DATED: 27-08-2004